

**COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE**

**March 20, 2000**

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald  
Deputy Clerk: D. E. Moore

**D034013        Howard C. Birndorf v. Superior Court**

Matter called on merits. Gerald L. McMahon, Esq. argued for petitioner. Edward J. Horowitz, Esq. argued for real party in interest, Tisch Alexander. Mr. McMahon replied for petitioner. Matter submitted.

Court recessed at 9:40 a.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Alex McDonald

**D031113        Robert Taylor v. McInnis Fitzgerald Rees & Sharkey**

Cause called on merits. Carl Fabian, Esq. argued for appellant. Steven C. Uribe, Esq. argued for respondent. Mr. Fabian replied for appellant. Cause submitted.

Court recessed at 10:15 a.m. until 1:30 p.m.

**D034399        In re James P., a Person Coming Under the Juvenile Court Law.  
San Diego County Health and Human Services Agency v. Linda B.**

The order is affirmed. Haller, J.; We Concur: Benke, Acting P.J., Nares, J.

**D034650        In re Jared H., a Person Coming Under the Juvenile Court Law.  
San Diego County Health and Human Services Agency v. John H.**

The appeal is dismissed. Work, Acting P.J., We Concur: Benke, J., McIntyre, J.

**D031524        People v. Gordon**

**D033974        In re Kent C. Gordon on Habeas Corpus**

The judgment (order of recommitment) is affirmed; the petition for writ of habeas corpus is denied. Benke, Acting P.J., We Concur: Nares, J., Haller, J.

**D035242        People v. Thompson**

Appellant's request for certificate of probable cause having been denied and no appealable issues having been raised in compliance with California Rules of Court, rule 31(d), the appeal is dismissed.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Judith Haller and James McIntyre  
Deputy Clerk: D. E. Moore

**COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**March 20, 2000 (Continued)**

**D032191        Carlos Fuentes v. McMillin Realty, Inc.**

Cause called on merits. John A. Simpson, Esq. argued for appellant. Earl T. Durham, Esq. argued for respondent. Mr. Simpson replied for appellant. Cause submitted.

**D032800        Deniece Duschene v. Toys "R" Us**

Cause called on merits. Jim Pantone, Esq. argued for appellant. Cindi Dalton, Esq. argued for respondent. Mr. Pantone replied for appellant. Cause submitted.

Court recessed at 2:15 p.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and James McIntyre

**D031364        San Diego Friends of Legal Aid v. City of Poway**

Cause called on merits. Chatherine A. Rodman, Esq. argued for appellant, and submitted additional authorities. Allison Burns, Esq. argued for respondent. Ms. Rodman replied for appellant. Cause submitted.

Court adjourned at 3 p.m.

**D032770        In re the Marriage of Paula S. and Nelson L. Reagan**

The order is affirmed. Kremer, P.J.; We Concur: Benke, J., Haller, J.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**March 21, 2000**

**D035005        Gonzales et al. v. Superior Court of San Diego County/People**  
The petition is denied.

**D034726        In re Russell on Habeas Corpus**  
The petition is denied.

**D033270        C. Robert Cummins v. Mission Foods Corporation**  
Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a).  
The appeal is dismissed.

**D033285        Hunt Building Corporation v. Remy**  
Judgment reversed. Respondent to bear costs on appeal. CERTIFIED FOR PUBLICATION. Nares, J.;  
We Concur: Benke, Acting P.J., Huffman, J.

**D031095        Scott v. Gentile**  
The judgment is affirmed. The parties shall bear their own costs on appeal. Nares, J.; We Concur:  
Benke, Acting P.J., Huffman, J.

**D032612        People v. Son**  
The judgment is affirmed. CERTIFIED FOR PUBLICATION. Kremer, P.J.; We Concur: Benke, J.,  
Haller, J.

**D032061        People v. Crowder**  
The judgment is reversed. The stay is vacated. On remand, the superior court shall impose sentence on  
count one subject to all applicable credits. Benke, J.; We Concur: Work, Acting P.J., Huffman, J.

**D032698        People v. Parker**  
The judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., Nares, J.

**D030367        People v. Holland**  
The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

**D031937        Reed v. Goode & Peterson**  
We affirm the judgment. Goode & Peterson shall have costs. Work, Acting P.J.; We Concur: Huffman,  
J., Haller, J.

**D031911        Sintek v. Prudential Insurance Company of America et al.**  
Having treated this appeal as a petition for writ of mandate, we deny the petition. Sintek shall have costs.  
Work, J.; We Concur: Kremer, P.J., Huffman, J.

**D035278        Roston v. Superior Court of San Diego County/People**  
The petition is denied.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE**

**March 21, 2000 (Continued)**

**D030391        Aroma Manufacturing Co. v. Employers Insurance of Wausau et al.**  
The petition for rehearing is denied.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE**

**March 22, 2000**

**D034573        People v. Pfuhl**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

**D035213        Rainbow Pension Systems, Inc., et al. v. Schleder**

Pursuant to California Rules of Court, rule 10(c), the appeal filed February 4, 2000, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

**D034091        Profit Plus, Inc. v. Lauer Group**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

**D034715        Genzler v. Superior Court of San Diego/People**

The petition for rehearing is denied.

**D032288        People v. Green**

The judgment is affirmed. Benke, J.; We Concur: Work, Acting P.J., Huffman, J.

**D032248        Valencia et al. v. National Steel & Shipbuilding Company et al.**

The judgment is affirmed. Respondent shall recover costs from appellants. Huffman, Acting P.J.; We Concur: McDonald, J, O'Rourke, J.

**D033891        In re Breanna C. et al., Juveniles**

Affirmed. Haller, J.; We Concur: Nares, Acting P.J., McIntyre, J.

**D034071        In re Max S., a Juvenile**

Order affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D033182        People v. Garrett**

The judgment is affirmed. Work, Acting P.J.; We Concur: Nares, J., O'Rourke, J.

**D032881        In re Leopoldo B., a Juvenile**

Judgment affirmed. Work, Acting P.J.; We Concur: Benke, J., McIntyre, J.

**D033746        People v. Beas**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

**COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**March 23, 2000**

**D032526        Brody v. Scripps Clinic Medical Group Inc.**

Judgments affirmed. Huffman, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

**D032525        Brody v. Walther**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

**D032405        Briggs Plumbing Products, Inc. v. National Union Fire Insurance Company**

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., Nares, J.

**D032524        People v Michael Silva**

The judgment is affirmed. Haller, J.; We Concur: Kremer, P.J., Benke, J.

**D035202        Bradshaw v. Superior Court of San Diego County/People**

The petition is denied.

**D032771        People v. Reddix**

The judgment is affirmed as modified. Kremer, P.J.; We Concur: Huffman, J., McDonald, J.

**D032191        Fuentes et al. v. McMillin Realty, Inc., et al.**

The judgment is affirmed. Costs are awarded to respondents. McIntyre, J.; We Concur: Kremer, P.J., Haller, J.

**D033790        People v. Acosta**

Judgment affirmed. Benke, Acting P.J.; We Concur: Huffman, J., O'Rourke, J.

**D032899        Grant Kimball v. Sandra L. Austin**

The order is reversed. Wagner, J. (assigned); We Concur: Huffman, Acting P.J., Nares, J.

**D034501        Tomsick v. Department of Motor Vehicles**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE**

**March 24, 2000**

**D033294        People v. Fillol**

The judgment is affirmed as modified. The trial court shall modify the abstract of judgment to accurately state credit for time served and advise the Department of Corrections of the modification. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

**D035277        Onyx Acceptance Corporation v. Superior Court of San Diego County/Susan K. Geller**

The petition is denied. Benke, Acting P.J.

**D032518        Cecelio Lugtu et al., v. California Highway Patrol et al.**

The judgment is reversed and the cause is remanded for further proceedings consistent with this opinion. Appellants shall recover their costs of appeal. CERTIFIED FOR PUBLICATION. McDonald, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

**D033493        Marriage of Short**

Reversed with directions. Parties to bear their own costs on appeal. Work, J.; We Concur: Kremer, P.J., O'Rourke, J.